

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT HAMMOND

WE-34B

IN RE:)
GLEN ROMANIA)
) BANKRUPTCY NO. 05-61813
)
Debtor)

ORDER DENYING CONFIRMATION OF PLAN

This case came on for hearing on the 28th day of June, 2005 on the Confirmation of the Plan of the Debtor.

Trustee only appears as required by Order of Court setting this plan for confirmation hearing. No formal objections were filed as to the Plan of the Debtor.

Submitted. Arguments heard.

The Trustee reports to the Court that he cannot recommend confirmation of the Plan of Debtor on the following grounds: Based on §507(a)(8) unsecured priority tax claim(s) filed, the Plan does not provide sufficient disposable income to pay the same in full over the life of the Plan pursuant to §1322(a)(2). Therefore, the Plan is not feasible pursuant to §1325(a)(6).

The Court has an independent duty pursuant to §1325(a) to determine whether a debtor's plan should be confirmed. McCullough v. Brown, 162 B.R. 506, 508, N. 3 (N.D. Ill. 1993); In re Christophe, 151 B.R. 475, 477 (Bankr. N.D. Ill. 1993); In re Snider Farms, Inc., 83 B.R. 977, 986 (Bankr. N.D. Ind. 1988); In re Girdaukas, 92 B.R. 373, 376-77 (Bankr. E.D. Wis. 1988); In re Jacobs, 43 B.R. 971, 975 (Bankr. E.D.N.Y. 1984); In re Harris, 62 B.R. 391, 393, n.1 (Bankr. E.D. Mich. 1986) (interpreting §1322 and §1325, the Court denied confirmation though objecting party did not appear at hearing and certain issues were not briefed); In re Jewell, 75 B.R. 318, 319 (Bankr. S.D. Ohio 1987).

The plan proponent has the burden of proving the satisfaction of each of the requirements to have a plan confirmed. In re Goodavage, 41 B.R. 742, 743 (Bankr. E.D. Va. 1984).

The Court having examined the Plan of Debtor, having heard the Statements of the Trustee, and being duly advised in the premises, finds that the Plan of Debtor does not conform with the requirements of 11 U.S.C. §1322(a)(2) in that based on the §507(a)(8) unsecured priority tax claims filed, the Plan does not provide sufficient disposable income to pay the same in full over the life of the Plan. A Chapter 13 plan that does not provide for full payment in deferred cash payments of all priority claims cannot be confirmed without the claim holders' consent. In the Matter of Escobedo, 28 F.3d 34, 35 (7th Cir. 1994). Therefore, said plan cannot be confirmed pursuant to 11 U.S.C. §1325.

It is therefore,

ORDERED, that the confirmation of the Plan of Debtor should be and is hereby **DENIED**. And it is further,

ORDERED, that the Debtor is hereby granted 21 days by the Court from the date of the entry of this Order to file an amended plan, and failing to do so, the Court may dismiss this case without further notice and hearing pursuant to 11 U.S.C. §1307, either sua sponte, or upon the filing of an affidavit of default by the Trustee.

Dated: June 29, 2005



JUDGE, U. S. BANKRUPTCY COURT

Distribution

Debtor, Attorney for Debtor

Trustee, U.S. Trustee

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